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NOTICE

TO: ALL CIGARETTE MANUFACTURERS
FROM: WILLIAM SWOPE, STATE FIRE MARSHAL
DATE: APRIL 1, 2008
RE: FIRE-SAFE CIGARETTE PROGRAM

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To help reduce the loss of lives resulting from fires caused by improperly extinguished cigarettes, a new law was passed during the 2007 session of the Kentucky General Assembly adopting reduced cigarette ignition propensity standards ("fire-safe cigarettes") for cigarette manufacturers who intend to sell cigarettes in Kentucky (the "Act").

The Act has an **EFFECTIVE DATE OF APRIL 1, 2008**, and the Division of Fire Prevention, Office of Housing, Buildings and Construction, Environmental and Public Protection Cabinet will be enforcing the new program in conjunction with the Department of Revenue and the Office of the Attorney General in accordance with **KRS 227.770-KRS 227.784**.

The Act requires that **ALL CIGARETTES INTENDED TO BE SOLD IN KENTUCKY BY MANUFACTURERS ON OR AFTER APRIL 1, 2008, MUST BE IN COMPLIANCE WITH TESTING REQUIREMENTS AND A CERTIFICATION OF COMPLIANCE SUBMITTED TO THE STATE FIRE MARSHAL**. The following outlines some of the more specific requirements of the Act for manufacturers:

TESTING: All cigarettes to be sold in Kentucky must be tested in accordance with the American Society of Testing and Materials (ASTM) standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes". See, KRS 227.772(1)(b). No more than twenty-five percent (25%) of the cigarettes tested shall exhibit full length burns. See, KRS 227.772(1)(d).



CERTIFICATION: Each manufacturer is required to submit a certification to the State Fire Marshal attesting that each cigarette listed in the certification has been tested and meets the performance set forth under KRS 227.772. In accordance with KRS 227.774(2), each cigarette listed in the certification shall be described with the following information:

- (A) BRAND OR TRADE NAME ON THE PACKAGE;
- (B) STYLE, SUCH AS LIGHT OR ULTRA LIGHT;
- (C) LENGTH IN MILLIMETERS;
- (D) CIRCUMFERENCE IN MILLIMETERS;
- (E) FLAVOR, SUCH AS MENTHOL OR CHOCOLATE, IF APPLICABLE;
- (F) FILTER OR NON-FILTER;
- (G) PACKAGE DESCRIPTION, SUCH AS SOFT PACK OR BOX;
- (H) MARKING APPROVED IN ACCORDANCE WITH KRS 227.776;
- (I) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE LABORATORY, IF DIFFERENT THAT THE MANUFACTURER THAT CONDUCTED THE TEST; AND
- (J) THE DATE THAT THE TESTING OCCURRED.

For each cigarette certified as being in compliance, the manufacturer shall pay to the fire marshal a fee of one-thousand dollars (\$1,000) per brand family. The term “brand family” is defined in KRS 131.604, which is the definition contained in the Tobacco Master Settlement Agreement Complementary Act. Note that each cigarette is to be recertified every three (3) years. See, KRS 227.774.

ALL certifications will be shared with the Office of the Attorney General to determine eligibility for the tobacco directory of approved brands.

LABELING: Each package of cigarettes shall contain the letters “FSC” or “FS”, which signify “Fire Standards Compliance” and indicates that the cigarettes are in compliance with the performance standards. The letters are to appear in eight (8) point type and be permanently printed, stamped, engraved or embossed on the packages near the UPC Code, if there is one. See, KRS 227.776.

PENALTIES: There are substantial monetary penalties for failing to comply with the requirements of the Act. Those penalties are specifically set forth in KRS 227.778.

ALL penalties could include fine amounts of \$10,000 to \$25,000 per sale as well as penalties for false certification which could include fine amounts of \$75,000 to \$250,000 and fines against retailers plus forfeiture for violations.

The foregoing is a brief overview of the requirements of the Act. You should familiarize yourself with all applicable requirements contained in the statutes. Those statutes can be viewed at the website of the Kentucky Legislative Research Commission and are found directly at <http://www.lrc.ky.gov/KRS/227-00/CHAPTER.HTM>. For specific questions regarding the implementation of this program, please contact one of the following:

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